



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,090	07/22/2005	Eng-Chye Teoh	030285-0316928	5639
909	7590	04/17/2009		
PILLSBURY WINTHROP SHAW PITTMAN, LLP			EXAMINER	
P.O. BOX 10500			ALLEN, CAMERON J	
MCLEAN, VA 22102			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			04/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p style="text-align: center;">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/543,090</p> <p>Examiner CAMERON J. ALLEN</p>	<p>Applicant(s) TEOH, ENG-CHYE</p> <p>Art Unit 1797</p>
---	--	---

–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED 31 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires 3 months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) They raise new issues that would require further consideration and/or search (see NOTE below);

(b) They raise the issue of new matter (see NOTE below);

(c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 13,14,17,18 and 21.
Claim(s) objected to: 10 and 11.
Claim(s) rejected: 9.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. Note the attached *Information Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____.

13. Other: _____.

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797

Continuation of 5. Applicant's reply has overcome the following rejection(s): Rejections applied to claims 13, 14, 17, 18, and 21 in office action 10/06/2009 under 35 U.S.C. 103(a).

Continuation of 11. does NOT place the application in condition for allowance because: Claim 9 stands rejected. Regarding claim 9, the attorney argues that the Momontov reference is not combinable with the Jasmin reference since it does not produce the desired amount of nitrogen removal. Claim 9 does not disclose a specific amount or target amount of nitrogen removal. So if it oxidizes it meets the limitations of the claim. The Examiner also notes the transition "comprising" in a method claim indicates that the claim is open-ended and allows for additional steps. MPEP 211.03

The applicant also argues the presence of halides in the Momontov reference is not necessary in the prior art. The claim has no limitation of the presence of halides. The applicant also argues that in the Momontov reference the acid used is an oxidizing acid. (Declaration pg 2 paragraph starting with "Lastly") By applicant's admission the acid also performs the function of oxidation which meets the claim limitation in claim 9. The applicant states that the acid in the instant application may be one of several acids, but does not exclude the oxidizing acid in the prior art. Therefore the limitation is met.